



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/153457

PRELIMINARY RECITALS

Pursuant to a petition filed November 14, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 03, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined that Petitioner was over-issued FoodShare benefits, in the amount of \$132.00 between 2/5/13 to 2/28/13.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Yia Xiong, Income Maintenance Specialist II
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On October 8, 2013, the agency sent Petitioner a Notification of FoodShare Overissuance, claim number [REDACTED] indicating that she was overpaid FoodShare benefits in the amount of \$132.00 for the month of February 2013. (Exhibit 4)

3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 14, 2013. (Exhibit 1)
4. Petitioner previously received FoodShare/Food Stamp benefits in [REDACTED]. On January 25 or 26, 2013, Petitioner notified the State of [REDACTED] that she was moving to Wisconsin. (Testimony of Petitioner)
5. On February 3, 2013, Petitioner moved to Wisconsin and on February 5, 2013, she applied for and received \$132.00 in FoodShare benefits in Wisconsin. (Testimony of Petitioner)
6. In February 2013, the State of [REDACTED] issued FoodShare/Food Stamp benefits to Petitioner. (Exhibit 3, pg. 6)
7. On February 22, 2013, the State of [REDACTED] sent Petitioner a letter indicating that that her food benefits would be ending effective March 1, 2013, because she no longer lived in [REDACTED]. (Exhibit 3, pg. 3)

DISCUSSION

The federal regulation concerning FoodShare overpayments requires the State agency to take action to establish a claim against any household that received an overissuance of FoodShare due to an intentional program violation, an inadvertent household error (also known as a "client error"), or an agency error (also known as a "non-client error"). 7 C.F.R. § 273.18(b), see also *FoodShare Wisconsin Handbook, App. § 7.3.2.1*. As such, it does not matter whose error caused the overpayment; it must be recouped.

In the case at hand, Petitioner did everything she was supposed to, but because [REDACTED] did not process Petitioner's change in address quickly enough, Petitioner received FoodShare benefits from both the State of [REDACTED] and the State of Wisconsin for the month of February 2013.

A person cannot be a member of more than one food unit. See 7 CFR§273.3(a) and *FoodShare Wisconsin Handbook §3.4.1*. As such, a person moving to Wisconsin from another state cannot receive duplicate benefits from both states. *Id.* Consequently, the agency correctly determined that Petitioner was overissued FoodShare benefits in February 2013.

CONCLUSIONS OF LAW

The agency correctly determined that Petitioner was over-issued FoodShare benefits for the month of February 2013.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

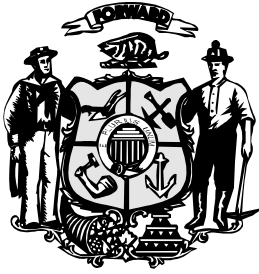
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 5th day of December, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 5, 2013.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability